



**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

**DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
TEGE EO Examinations Mail Stop 4920 DAL  
1100 Commerce St.  
Dallas, Texas 75242**

501.03-00

**Date: June 14, 2012**

**Number: 201240029  
Release Date: 10/5/2012**

**LEGEND**

**ORG - Organization name  
XX - Date Address - address**

**Taxpayer Identification Number:  
Person to Contact:  
Employee Identification Number:  
Employee Telephone Number:  
(Phone)  
(Fax)**

**ORG  
ADDRESS**

**CERTIFIED MAIL – RETURN RECEIPT**

**Dear :**

**This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code. Our favorable determination letter to you dated February 9, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.**

**The revocation of your exempt status was made for the following reason(s):**

**You have failed to produce documents to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3), and that no part of your net earnings inure to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by I.R.C. 6001, 6033(a)(1) and Rev. Rul. 59-95, 1959-1 C.B. 627. Further, it appears you have a more than insubstantial non-exempt purpose of conducting social, rather than charitable activities.**

**Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.**

**You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending January 1, 20XX, and for all tax years thereafter in accordance with the instructions of the return.**

**Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.**

**If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91<sup>st</sup> Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:**

**You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:**

**If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.**

**Sincerely,**

**Nanette M. Downing  
Director, EO Examinations**



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
1100 Commerce Street  
Dallas, TX 75242

January 14, 2011

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule number or exhibit  1
Name of taxpayer ORG	Tax Identification number  EIN	Year/period ended December 31, 20XX

#### LEGEND

ORG - Organization name      XX - Date      EIN - ein      Address - address      website  
- website      CO-1 - 1<sup>st</sup> COMPANY

#### ISSUE

1. Whether ORG (ORG) is both organized and operated exclusively for one or more of the purposes specified in section 501(c)(3) of the Code.
2. If they fail either the organizational test or the operational test, what would be the effective date of revocation
3. Whether ORG is at risk of section 6033(j) revocation because it did not file all required returns by the extended due date of October 15, 20XX

#### FACTS

ORG (ORG) is recognized as a section 501(c)(3) tax-exempt organization. The Organization was granted exemption on February 09, 20XX.

According to the bylaws, the purpose of the organization is to:

- Raise funds and award to educational and community awareness programs to benefit disadvantaged youth and to benefit research and or treatment services for infectious disease control.
- To perform other functions as may be necessary or appropriate to fulfill the purposes of the Organization.

This case was transferred from the Review of Operations (ROO) to verify if the organization meets the operational test.

According to Form 1023, the organization was to provide services to ameliorate the causes and characteristics of individuals living in the Dallas Metroplex area. The goal of the organization was to partnership/network with other organizations that provide health and human services to meet the need of people struggling with issues pertaining to health, educational, housing, and unemployment.

According to the ORG's website, the organization consists of African American professional women who are committed to providing a networking and social forum for women in a non-business type atmosphere. ORG has a website. The "about" page explains that the organization is a social networking organization for women. Some of the sections on the organizations' website are linked to external sources.

- The employment banner is linked to external website powered by jobing.com.
- The health banner is linked to an external website?
- website

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- The promotional partners are linked to an external website.

As of today the website is active and advertises the following activities:

- ORG Annual Party November 27, 20XX at Excuses, Address 10PM – 3 AM, \$ Presale/\$ Door
- The CO-1 August 20<sup>th</sup> – 25<sup>th</sup>, 20XX City, State
- ORG Annual New Year's Eve December 30<sup>th</sup> and 31, 20XX.

Since the date of exemption, February 09, 20XX, ORG filed only one Form 990-N (e-Postcard). ORG filed Form 990-N for the tax year that ended December 31, 20XX on September 13, 20XX, which the return original due date was May 15, 20XX. . The organization's corporation has been voluntarily dissolved by the Secretary of State (SOS) as of December 23, 20XX.

On April 7, 20XX the examining agent contacted the organization to schedule an appointment, but received no responses from the organization. The examining agent prepared and mailed the Letter 3611, Publication 1 and Form 4546 - Information Document Request informing the organization of the examination and requesting organization to contact examining agent with the place of appointment. The correspondence was sent via certified mail on April 05, 20XX. The examiner agent made numerous attempts, but the taxpayer did not show up for the scheduled appointments. Finally, on August 13, 20XX, the examiner received the first correspondences from the taxpayer by letter:

- Letter 1045 -determination letter,
- 20XX Organizations officials responsibilities,
- 2-pages meeting minutes,
- 20XX-20XX Membership application,
- ORG code of Conducts,
- By-laws, and
- ORG Ordering Form.

On October 13, 20XX, the Vice President finally showed up for the scheduled appointment. The examining agent conducted the initial interview. However, the taxpayer failed to provide any records for the examination. On November 23, 20XX, the examining agent called the Vice President of ORG and explained to her that the examining agent was concluding the examination and proposing revocation of ORG's exempt status.

## LAW

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable, or educational purposes so long as no part of the organization's net earnings inures to the benefit of any private shareholder or individual. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish

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one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of any exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(ii) of the regulations states that an organization is not organized or operated for one or more exempt purposes unless it serves a public rather than a private interest. Accordingly, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator, shareholders, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(e)(1) of the regulations provides that an organization may meet the requirements of section 501(c)(3) if the Code although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513 of the Code. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes.

Harding Hospital, Inc. v. United States, 505 F.2d 1068 (1974) [74-2 USTC ¶9816], holds that an organization seeking a ruling as to recognition of its tax exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute. Whether an organization has satisfied the operational test is a question of fact. See also Christian Stewardship Assistance, Inc. v. Commissioner, 69 [70] T.C. 1037, 1042 (1978) [CCH Dec. 35,422].

Better Business Bureau v. United States, 316 U.S. 279 (1945), holds that the existence of a single non-exempt purpose, if substantial in nature, will destroy the exemption under section 501(c)(3). An organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such purposes.

IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees,

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and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg. § 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

Treas. Reg. § 1.6033-2(1)(2) provides in part, that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F, Chapter 1, of subtitle A of the Code, IRD §6033, and Chapter 42 of subtitle D of the code.

IRC §6033, Treas. Reg. § 1.6001-1(c) and Treas. Reg. § 1.6033-2(a)(1) and (i)(2) require any organization exempt from tax under IRC § 501(a), to supply the Service with such information as is required by the revenue procedures and the instructions for Form 990-PF, Return of Private Foundation information returns, and Schedules thereto and to keep such books and records as are necessary to substantiate such information.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

Church of Gospel Ministry, Inc. v. United States, 641 F. Supp. 96 (1986) U.S. Dist., due to the taxpayer's failure to keep adequate records, the court held that the taxpayer failed to sustain its burden to show that it was qualified for federal tax exemption as a corporation organized and operated exclusively for religious and charitable purposes, as required under IRC § 501(c)(3), and that it was further qualified to receive deductible charitable contributions under IRC § 170 (c)(2). The court found that the inadequate records failed to show that the taxpayer's operations did not inure to the private benefit of its officers, as provided under IRC § 6001. The court found that as a prerequisite to an IRC § 6033 filing exemption, it was necessary for the taxpayer to show it qualified as an IRC § 501(c)(3) organization, which it could not.

## TAXPAYER'S POSITION



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## GOVERNMENT'S POSITION

An organization must be both organized and operated exclusively for one or more of the purposes specified in section 501(c)(3) of the Code.

To satisfy the operational test, an organizational must:

- Engage primarily in activities which accomplish one or more of the exempt purposes specified in IRC section 501(c)(3)
- Not allow its net earnings to inure to the benefit of private shareholders or individuals
- Not engage in substantial lobbying activity
- Not engage in any political activity.

Whether an organization has satisfied the operational test is a question of fact. See Harding Hospital, Inc., supra. The main reason why ORG does not qualify for exemption under section 501(c)(3) is that it fails to operate for a charitable non-exempt purpose. None of the organization activities advertised on their website support their exempt purposes. The events conducted by ORG are primarily social in nature.

An organization will not be so regarded as operating exclusively for charitable purposes if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. In the fundamental case of Better Business Bureau of Washington, D.C., Inc. v. United States, supra, the Court concluded that the presence of a single nonexempt purpose, if substantial in nature, would preclude exemption regardless of the number or importance of statutorily exempt purposes.

In Church of Gospel Company, due to the taxpayer's failure to keep adequate records, the court held that the taxpayer failed to sustain its burden to show that it was qualified for federal tax exemption.

None of the activities on ORG's website relates to the credit counseling services described on the Form 1023 filed with the Internal Revenue Service. The organization was unwilling and or failed to provide any substantial documentation for exempt activities conducted during the year under examination.

Furthermore, on November 23, 20XX, the Vice President admitted that they have not been very cooperative during the examination and understand the Internal Revenue Service is proposing revocation.

In addition to the fact that the organization is not both organized and operated exclusively for one or more of the purposes specified in section 501(c)(3) of the Code, it is the government's position that they should be automatically be revoked under section 6033(j).

ORG failed to file their third return, December 31, 20XX, by the original due date of May 15, 20XX. Hence even though they filed the December 31, 20XX Form 990-N by October 15, 20XX they did not meet all of the requirements under the on-time two-part relief program, which states in part that the organization must file its three delinquent returns and pay a small fee by October 15, 20XX. By operation of law, organizations that failed to file annual information returns for three consecutive years, and failed

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to meet all the requirements under the relief program, automatically will be revoked as of the original due date of their third return.

### CONCLUSION

(ORG) is not organized and operated exclusively for one or more of the purposes specified in section 501(c)(3) of the Code and hence they should be revoked. They failed to file annual information returns for three consecutive years. Section 6033(j) of the Internal Revenue Code requires statutory loss of tax-exempt status for organizations who fail to comply with these filing requirements effective on the due date for filing the third year's return or notice. Section 6033(j) is effective for returns and notices with respect to annual periods beginning after 20XX. Therefore the exempt status of ORG should be revoked.